

AM - Far Hills

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Housing, Planning + Zoning Report  
Concerning Home's and Ochs v.  
Far Hills

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HOUSING, PLANNING AND  
ZONING REPORT CONCERNING  
HAUEIS AND OCHS VS.  
BOROUGH OF FAR HILLS NEW JERSEY

Submitted  
To: Thomas F. Collins, Esquire

From: P. David Zimmerman  
Professional Planner

On: October 5, 1982

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21 WESTERN AVE.  
MORRISTOWN, NEW JERSEY

October 5, 1982

Mr. Thomas F. Collins, Esquire  
Vogel & Chait  
Miller Avenue at Maple Road  
Morristown, NJ 17960

Re: Haueis and Ochs vs. Borough of Far Hills

Dear Mr. Collins,

Please find herein my housing, planning and zoning report concerning issues raised in the above litigation. After careful analysis of the facts it is my conclusion that the zoning ordinance of Far Hills Borough is invalid and unreasonable in that it is exclusionary. The plaintiffs' property is particularly well suited to address the major defects in the Borough ordinance as it is eminently suitable for low and moderate, least cost and affordable housing.

Please be advised that I was assisted by Susan Gruel, professional planner. All work however, was done under my supervision, and all findings, conclusions, recommendations, etc. are my sole responsibility.

Yours truly,



P. David Zimmerman

PDZ/ph

Enclosures

On August 18, 1981, Plaintiffs, Alois Haueis, Erna Haueis, John Ochs and Priscilla Ochs, filed a complaint in lieu of prerogative writ against the Borough of Far Hills, The Planning Board of Far Hills, the Borough Council and Mayor of Far Hills challenging the validity of the entire zoning ordinance of the Borough of Far Hills and seeking specific relief relating to plaintiff's property. Plaintiffs also challenged the zoning on the grounds that it was an inverse condemnation of their property entitling them to compensation or rezoning. The complaint also challenged the constitutionality of the zoning ordinance under the Mt. Laurel decision.

The plaintiffs' property (herein referred to as subject property) is known as Block 6A, Lot 4/7 on the Borough Tax Map. It contains approximately 19.108 acres. Roughly triangular in shape, the peak, amounting to 237 feet fronts U.S. Route 202. The west side abutts a New Jersey Power and Light Company right-of-way and Conrail (Formerly Delaware Lackawanna and Western Railroad) for a distance of 1550 feet. The eastern side has 1217 feet of frontage on Sunnybranch Road and the base is 1072 feet. This subject property is vacant and is located immediately to the north of the village center of Far Hills. The property is located in the zone district R-10 which permits one (1) single family residence on a ten (10) acre lot. It may be possible to subdivide the property into two (2) lots if a minor lot size variance could be obtained for one of those lots.

Plaintiffs essentially contend that the Zoning Ordinance of Far Hills is unconstitutional as it fails to provide any opportunity for development of low and moderate income and least cost housing to meet the local and regional needs for housing in Far Hills and its region. Further, the Master Plan of the Borough of Far Hills, including the land use element, fails to make any provision for the development of low and moderate income and least cost housing. Neither document makes any provision for multi-family housing. Lastly, plaintiffs contend their property is ideally suited for development of multi-family, least cost and low and moderate income housing.

This report is an analysis of these housing, planning and zoning issues.

## BACKGROUND - FAR HILLS BOROUGH

"As a political entity, the Borough of Far Hills is relatively young compared to Bedminster. Originally part of the 3,000 acre Bernards Township tract, whose charter dates back to 1760, the Borough of Far Hills seceded from the township in 1921. Principal factors in the secession which led to the creation of a village in what was to become Far Hills were the railroad and a search for development land by a realtor.

The New Jersey West Line Railroad made its first trial run from Bernardsville to Summit on January 29, 1872. Arrangements were then made to have a car coupled to the Delaware, Lackawanna, and Western trains then running to New York. The New Jersey West Line received authorization to extend its line to give it a full route from Phillipsburg to the Hudson. However, failure of the Lehigh Valley Railroad to continue its financial support killed the expansion and threatened the future of the 14-mile railroad whose debts were mounting. The railroad was encouraging land development and was being used by the local peach industry. These were not enough to support it, however, and in 1878 the West Line was purchased by the Delaware Lackawanna and Western Railroad. The Wests' bridges and roadbeds were repaired and the line extended through Far Hills another seven miles to Gladstone. Trains on the Gladstone branch began running to New York in November, 1892.

Chief among those responsible for the routing of the extension from Bernardsville to Gladstone was a broker and realtor, E. H. Schley. He had come to the area in the early 1890's from New York looking for purchasable pasture land which he could develop into estates for his wealthy clients. An early newcomer was Mr. Schley's brother, Grand B. Schley, who arrived in 1887. Mrs. Schley is credited with giving the village its name. Arriving at the Bernardsville terminus, she said the area should be named for its "far hills."

The first buildings in the new village were a railroad shed, post office, and blacksmith shop. Building lots were laid out and the first house built in 1896. Trains provided service every day but Sunday, and Far Hills became a rural area devoted to farms and estates.

In 1921, the residents of the village voted to create a municipality of their own and seceded from Bernards Township. In 1906, Grant B. Schley constructed the Far Hills Fair Grounds. The Grounds are kept today as a municipal asset and are used by diverse community organizations."  
(Pages II-3 to II-5).<sup>1</sup>

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1. Library Survey For The Bedminster-Far Hills Public Library  
Somerset County, NJ 1974.

## PLANNING AND ZONING IN THE BOROUGH OF FAR HILLS

The first zoning ordinance of Far Hills was enacted in 1932 and established the districting that for all practical purposes continues with the present zoning ordinance. The ten acre lot size characterized a majority of the Borough, however, small residential lot sizes, down to 3,000 square feet, were permitted in the village, as well as business uses.

In 1964, a sub-committee on long-range planning of the Far Hills Planning Board produced a mimeograph entitled "Summary of a Report on Long Range Planning to the Far Hills Planning Board." That report identified problems, planning and zoning issues and made conclusions and recommendations.

Initially, the report outlined the present nature or posture of Far Hills as follows: "Far Hills currently enjoys a unique position of stability in Somerset County. We have a low tax rate and low rate of population growth and turnover. We owe our good position in part to a highly restrictive ordinance but also to our relative inaccessibility to major business and industrial centers and to the disinclination of the large land owners to accept sub-division of their holdings." (Page 1). While the statement speaks for itself, it does indicate several important conclusions, in my opinion. First, there is an admission that the Borough has a highly restrictive zoning ordinance. Then, as today, the minimum lot size was one single family home on 10 acres. Second, the mimeograph points out that the Borough is relatively inaccessible. Later on the document indicates that: "With the coming of two new highways our inaccessibility shield is destroyed and we are exposed to new pressures." (Page 1). The mimeograph points out that the quality and character of the Borough is in part dependent upon large land owners retaining their holdings as opposed to sub-dividing.

Further, the report talks about the increases in Borough population and increasing industrial and residential growth in nearby towns which will put Far Hills in the path of new utility service lines. The document identifies weak points, areas of opportunities and finally concludes that a significant step to be taken would be retaining a professional planner to undertake a Master Plan and new zoning ordinance.

That advice appears to have been followed by the Planning Board and in October 1964 a document was prepared by Herbert H. Smith, Associates, Planning Consultants, entitled, Background for a Zoning Study for the Borough of Far Hills. This document is essentially a Master Plan for the Borough.

The Plan prepared by Herbert Smith identified existing land use, community facilities, school populations, etc. The major planning issues addressed, however, are not that far removed from issues that we are grappling with 18 years later. The Plan analyzes various development alternatives for Far Hills and seeks to measure their impact upon the Borough in terms of housing units, population, ability to be served by the infrastructure, etc.

The Plan does make several recommendations. First, the Plan recommends changing the minimum lot size in the village area to 15,000 square feet from the present residential B District of 3,000 square feet. Even with this lot size upgrading, the village area could accommodate 165 new dwelling units and 580 population. Second, it was recommended that the residential estate area be retained with no change. A discussion was presented regarding development of the then Ellis property, which today is more commonly referred to as Moorland Farms owned by A T & T. The Plan's conclusion was that Route 202 was a physical barrier which separated the village area from the lower density residential estate area or the 10 acre zone district. Development of the Ellis property or Moorland Farms would introduce higher density non-estate type housing on the south side of Route 202 which would infringe into the 10 acre estate area. The Plan indicated that approach would not be in the best interests of Far Hills and could be a precursor to further intrusions into the residential estate area. The Plan recommends that there indeed should be areas in the region which can be maintained for those who are fortunate to have the money to build large residential estates without fear that their estates will be engulfed by suburban development.

It is also of interest that the Plan did quote from the case Fischer vs. The Township of Bedminster 11 NJ 194, and in particular the following: "A zoning ordinance which is reasonable today may at some future time by reason of changed conditions prove to be unreasonable and it may then be set aside."

The conditions in that case and the Plan of 1964, based upon 1964 conditions, yielded a land use scheme and policies for the Borough. The residential estate area was unchanged and upgrading of lots in the portion of the village area was recommended. There also was a recognition that growth could be accommodated in the village. There was an identification of vacant developmental land and the anticipation, as outlined in the report, was that housing would be built on the vacant land in that there would be increases in population in the future.

In 1966 a new zoning ordinance was adopted by the Borough. The zoning ordinance established for residential zones with the following minimum lot sizes. Residence A - 10 acres, Residence B-1 - 1 acre, Residence B-2 - 9,000 square feet, Residence B-3 - 5,000 square feet. The village area was basically put into three residential categories from 5,000 square feet to one acre. Most existing residential lots were either 5,000 or 9,000 square feet in size. A sub-division characterized by the streets Schley, Ludlow and Far Hills was in the 9,000 square foot zone category.

#### SOMERSET COUNTY MASTER PLAN OF LAND USE

In 1970 the Somerset County Planning Board adopted and published the Somerset County Master Plan of Land Use Towards The Year 2000. As the Plan states, "The goal of this Master Plan will be to provide a frame of reference for all future development by all levels of government, as well as private development, so that Somerset County will develop rationally in an economic and aesthetic manner," The Plan contains a map entitled Somerset County Master Plan of Land Use which places property in the Borough of Far Hills in three categories: village neighborhood, rural settlement and open space.

The Plan recognizes that there are a score of village neighborhoods designated throughout Somerset County. These are relatively small areas which have a long history as places of residences, but also include institutions, commercial facilities and even some small industrial establishments. Most importantly, however, these areas are characterized by compact residential development that comprise a neighborhood. Usually this neighborhood contains housing ranging from modest homes to substantial residential establishments. The more compact areas of development may have densities approximately five (5) to fifteen (15) families per acre, and the size of the village may vary from 1 to 10,000 persons.

The village neighborhood for Far Hills as outlined in the County Master Plan includes three areas. The first is the housing, commercial and railroad uses located between Route 202, Peapack-Far Hills Road and the Delaware Lackawanna Railroad Line. Further to the north is the second area, a single family sub-division defined by Far Hills Avenue, Schley Road and Ludlow Avenue. Lastly, a third area of property on the east side of the Delaware Lackawanna Railroad up to approximately Sunnybranch Road is also included in the County's village neighborhood designation. The total area is approximately 165 acres in size. The only sizeable parcel that is vacant in that area is the nineteen (19)



acre subject property located at the intersection of Sunnybranch Road and Route 202. At the present time, there are approximately seventy-nine (79) residential structures in the area designated village residential which contain approximately 222 persons or about thirty-three percent (33%) of the Borough population.

The Master Plan proposes guidelines for both preserving the charm and attractiveness of the villages and accommodation for new development; "The new housing development in the vicinity of the village should endeavor to replicate both the compact development and the open space settings. In this process, apartment development may be an optimum form of development to the smaller lots which also would be valid in this context. The large tracts of garden apartments or single family housing often present a monotonous uniformity that would clash with the architectural style of the village. The technique of a variety of different stylings with varying numbers and groupings of townhouses intermingled with detached houses, is worthy of consideration." (Page 47). Further on, the Plan also states: "No municipality has been excluded from proposals for a higher density of residential development located in areas suitable for such development. Areas where public utilities are, or can be readily available, and where the road networks warrant, have been designated as village neighborhood and community development. The implementation of this phase of the County Land Use Plan will reinforce this balanced development of land." (Page 52). Indeed, the Plan envisions growth in all the Somerset Hills communities, "The Somerset Hills municipalities of Bedminster, Far Hills, Peapack and Gladstone, and Bernardsville, our forecasts have increased from 25,000 in 1970 to 35,000 in 1980 and to 54,000 in your year 2000." (Page 52). Specifically, Far Hills Borough is shown as having a population of 2,000 by the year 1990. (Page 41).

Most of the remaining Far Hills Borough area, not village residential, falls in the designation rural settlement. Areas in Somerset County with large acreage zoning (3 acres and larger) are designated rural settlements. The reasons buttressing this large lot type of land use designation relate to open space, aesthetics and preservation of environmentally sensitive areas. The Plan also points out that there is a valid need to limit sprawl and together with concentrating development in more suitable areas such as the village neighborhoods, residential neighborhoods and community development areas, the gross numbers of population and housing units expected can be accommodated in Somerset County and in the municipalities of the County. Essentially the Plan states, "The Somerset County Master Plan of Land Use would

distribute the growth in population by providing a greater variety of housing, including apartment development and community and neighborhood centers, and emphasize low density characteristics of the rural settlement areas." (Page 52).

The third land use category presented in the Somerset County Plan for Far Hills Borough is open space. This designation characterizes the northern most properties in the Borough as well as flood plain area on either side of the North Branch of the Raritan River. The designation of open space as it pertains to Far Hills Borough characterizes steep slopes and heavily wooded areas, and the flood plain areas astride the North Branch of the Raritan River.

In summary, the Somerset County Master Plan presents a rational plan for Far Hills Borough. First, to accommodate growth, the village neighborhood area is identified. This area will incorporate both existing higher density housing and opportunities for modest expansion of the village to accommodate, hopefully, a variety of housing consistent with the architecture and ambience of the village. Second, the rural settlement area will remain as low density residential recognizing its open space quality, aesthetic features, environmental characteristics and land use traditions. The third area is open space which characterizes woodlands, steep slopes and flood plain areas. The Somerset County Master Plan presented is a cogent and rational scheme or guide which represents an opportunity to Far Hills Borough to retain its low density, large lot zoning while it also accommodates modest development and expansion of the residential potential of the village at higher densities.

Indeed, the Somerset County Plan indicates that, "The expectation of extensive demands on the land by both residential and industrial development is balanced off by the preservation of about forty percent (40%) of the land in the open space or rural settlement pattern of development." (Page 8).

A substantial cause element for the industrial development in Somerset County is the highway system and the new interstate highways in particular, "The interstate freeways have developed their own momentum of industrial development pressures with only a tenuous relationship to the older centers. I-287 and now I-278 and the forthcoming I-95 are undoubtedly major factors in the location patterns of industry." (Page 13).

Lastly, in the area housing, the Plan makes several significant statements, "It indicated that under present federal housing programs the vast majority of wage and salary employees, not just lower income or minority groups, are being priced out of the housing market." (Page 39).

Also, "On the local level the County Planning Board has advocated greater attention be given to providing a variety of community development and of housing types, including a range of housing to meet needs of all segments of the population." (Page 39).

#### NATURAL RESOURCES INVENTORY

The Natural Resources Inventory of Far Hills dated October 1975, recommended that "Far Hills needs a Master Plan based on environmental factors, which would provide growth in appropriate areas (emphasis added). It should control stream corridors and flood plains, regulate use of steep slopes and protect wetlands, and consider aquifers on site and regionally as a framework for density determination. Far Hills must recognize environmental values and protect them in a framework of reasonable land use controls." (Page X, Vol.1)

The Natural Resources Inventory (NRI) in 1975 recognized "that the construction of I-287 in 1967 has brought development pressures on Far Hills, despite no direct access. The coming of A T & T to neighboring Bedminster is seen as a harbinger of growth pressure... Future needs can be met by wise management through careful regulation and use of available resources." (Page 43, Vol. 1).

## MASTER PLAN FOR FAR HILLS

In 1977 the Borough published its second Master Plan. This document introduces environmental data as a strong basis for land use designations and ultimately zoning ordinance implementation. It in short, offers additional information and conclusions to justify the zone districting of Far Hills into ten (10) acre lot rural settlement and 5,000 square feet and 9,000 square feet lot village neighborhood areas.

The plan is basically at odds with information presented in the Somerset County Master Plan, State Development Guide Plan and the Borough's own Natural Resources Inventory. It does marshal 'reasons' for not planning for an allotment of "least cost" housing, it identifies critical areas as the basis for denigging any compact development and it designates substantial areas of the Borough as ten (10) acre residential. Most 'reasons' cited, conclusions and recommendations proposed are contrary to reasons and conclusions contained in this report.

As far as the environmental question is concerned the courts have effectively seen through its misuse according to the following: ". . . the answer to the ecological problem posed was not prohibition of or regulation of the density of development per se but careful use of land, with adequate controls in respect of construction, sewerage, water control and treatment, sufficient open space per structure and other services." Oakwood at Madison vs. Township of Madison 72N.J. at 544-545

It is stated in the Master Plan that "about 90 percent of the land in the Borough is so serverly handicapped that compact development cannot be supported by the land . . . there is no physical site available near the village (for least cost housing)." The Natural Resources Inventory comments contrarily that "The central Far Hills area has growth possibilities in areas bordered by bedrock shale. Principal constraints are flood plains, runoff and aquifer protection." (Page X ) While certain portions of Far Hills are in environmentally sensitive areas and fragile areas must be protected, it is inappropriate for Far Hills to essentially preclude any growth areas which could provide balanced housing and base that exclusion on environmental reasons.

It is the opinion of this report that the Far Hills Master Plan of 1977 is a self serving document written and adopted to justify exclusionary land use and zoning practices.

## STATE DEVELOPMENT GUIDE PLAN

In May 1980, the New Jersey Department of Community Affairs, Division of Planning, published the State Development Guide Plan Revised Draft. In that Plan, specifically on page 133 is a map of Somerset County which shows all areas of the County divided into four land use designations. The Borough of Far Hills is shown in two categories: growth area and limited growth area.

More specifically, the Plan identifies the growth area category as "growth area - areas marked by existing development with existing infrastructure which can accommodate further growth without endangering vital natural resources, incurring massive new public investments, or contributing to inefficient uses of energy or land resources." In summary, the growth areas are, as the name implies, sections of Far Hills where development, new housing, etc. is recommended. The map shows the western portion of the Borough in this category which includes the existing Far Hills village and most of the subject property. It compares to the village neighborhood designation found in the Somerset County Master Plan.

The remaining and majority area of Far Hills is categorized limited growth area which is defined in the State Development Guide Plan as "areas not yet intensively developed nor of major environmental significance which may grow at a moderate pace and may serve as a reserve for future development."

There are two other categories shown on the State's Plan map of Somerset County: agriculture area and conservation area. Neither of those two categories define any property in Far Hills Borough.

It appears that there is substantial conformance if not unanimity between the State Development Guide Plan and the Somerset County Master Plan. They both identify the Far Hills Village and adjacent and contiguous properties as areas for reasonable expansion to accommodate present and future development. Interestingly, both plans also identify significant areas in Far Hill Borough as low density or limited growth. In this sense, the Plans recognize the principle that growth can be accommodated in well chosen sites while low density areas are retained.

## CRITERIA FOR HIGHER DENSITY HOUSING

Municipal land use decisions in New Jersey have been based upon many considerations. In terms of planning, these considerations include location suitability criteria, environmental capabilities and judicial directives. In addition, land use factors such as maintaining a certain character or "image" of a community can be an important community goal.

The location of higher density housing like multi-family dwellings is an essential element in the municipal planning process. Normally, land can be evaluated

by utilizing location criteria to determine the degree of suitability for this type of housing. The following is a list of location suitability criteria which are employed.

1. Availability of public sewers
2. Availability of public water
3. Access to collector-type street
4. Compatibility with surrounding land uses
5. Proximity to commercial facilities
6. Proximity to transportation facilities
7. Proximity to public facilities (police, fire, schools, parks)
8. Proximity to private facilities (doctors, dentists, house of worship)
9. Need for housing (local and regional)

In addition to the aforementioned location suitability criteria, site specific criteria pertaining to environmental capabilities or limitations should be factored into these land use decisions.

In the subsequent section of this report the subject property will be evaluated according to both location suitability criteria and site specific (environmental) criteria.

1. Availability of Public Sewers and
2. Availability of Public Water : See Ernest C. Hiesenser, P.E. report dated August 6, 1982.

"As stated above, the village area of Far Hills is located southerly and adjacent to the site. Both a public water system and sanitary sewage system is located in the streets of the village and can be easily extended to this site. The sanitary sewer lines are at a lower elevation than the site and, therefore, gravity sewerage of the lot is obtainable. The public water system is owned by Commonwealth Water Company and the sanitary sewer lines connect to the existing treatment plant in Bedminster Township. It is our understanding that the present Bedminster Treatment Plant is operating at or near capacity and additional sewage from Far Hills Borough could not be accepted by the treatment plant until such time that the plant is enlarged to accept additional gallonage."

### 3. Access to Collector-Type Street

The subject property is situated and fronts on the north side of State Route 202, and on the east by Sunnymead Road. According to the Somerset County Circulation Plan, Route 202 is identified as an arterial road which is defined as having "an intermediate role between major highways and the local streets. It functions in its own right, but also acts as a connector and a collector for the major highway system." (Page 36) The Far Hills Master Plan further identifies state Route 202 as "an important access road for local traffic in the region" The parcel fronts on Route 202 which has been identified as a collector type street.

It is interesting to note that the traffic volume on Route 202, as stated in the Master Plan of 1964 was 8,500 vehicles per day. Approximately, fifteen (15) years later the volume, according to the New Jersey Department of Transportation was 6,760 vehicles per day. This represents a 19.3 percent reduction in traffic during this period. The point, from a planning and zoning perspective, is that Route 202 is not used overcapacity and can well accommodate modest increases in volume as would result from multi-family use of the subject property.

#### 4. Compatability With Surrounding Land Uses

The subject property abutts single family homes on ten (10) acre lots to the north, Route 202 to the south, it also fronts on Sunnybranch Road and has an electric utility right of way and railroad to the west. Further to the west, past the railroad and railroad station is the village area of the Borough which includes neighborhood commercial facilities, homes on small lots, etc.

The obvious appropriate use for the property is residential, as opposed to commercial or industrial. However, it suffers negative impacts from the railroad and traffic on Route 202. While the property is zoned one home on ten (10) acre lots and while two lots could be created, they would not be as well used for an estate residence as most other properties in the R -10 zone district.

Contrarily, the property could be used for higher density or multi-family housing which would well fit into the existing land use patterns. First, it represents a contiguous and logical extension to the village. Second, multi-family is often introduced into areas that are basically transition or buffer-type parcels. That is, the land is a transition from intense commercial (and railroad) use to multi-family to lower density housing. Third, if Far Hills is to have multi-family there is no spot of ample size that will also satisfy location criteria and be far removed from ten (10) acre lots. After all about 2,800 acres or 90 percent is so zoned. These large lots have substantial 'protection' in that they are large and have commenserately large front, side and rear yards.

To the extent any lot in the Borough, used for multi-family housing, can be compatible with its neighbors the subject property is the best.

#### 5. Proximity to Commercial Facilities

Immediately adjacent and to the west of the railroad station along Route 202 to the intersection of Route 512 are various commercial structures. The business facilities within the village center range greatly from professional offices, to stores and shops to auto and oil establishments. Further, these neighborhood

retail facilities include a pharmacy, a delicatessen, a hair salon, a country store, etc. Both Bernardsville and Pluckemin are within four miles of the site and provide community shopping facilities.

The site is within walking distance to the village commercial facilities and within reasonable driving proximity to community shopping.

#### 6. Proximity to Transportation Facilities

Interstate Route 287 passes through the southern portion of the Borough. Access to Route 287 is available at the Route 202 interchange in Bedminster which is within three miles of the site and at the Mt. Airy interchange in Bernards Township which is about 3.5 miles from the site.

The Conrail (Erie Lackawanna) railroad and train station abutt the subject parcel. According to the September 1982 train schedule, five trains stop in Far Hills en route to New York. Eight trains departing from New York stop at Far Hills during the day.

The site is easily accessible to a major interstate, I-287 and also is within a very short walk to rail public transit which provides daily commuter service.

#### 7. Proximity to Public Facilities

The fire station which is staffed by volunteers is located on Dumont Street within a  $\frac{1}{4}$  mile of the site. The Far Hills-Bedminster First Aid Squad is housed in a new facility on Route 202, about  $\frac{1}{4}$  mile from the site. The Borough hall, police and municipal court are located in the former elementary school on Prospect Street within  $\frac{1}{4}$  mile of the site.

Far Hills has no municipal school facilities. Elementary school children are sent to the Bedminster system and high school students to the Bernardsville system. A joint Far Hills-Bedminster library exists within a mile of the site at the intersection of Route 206 and Lamington Road. The Far Hills Post Office is located in the Country Mall in the village. There is a 25 acre open space parcel with a playing field between the river and Peapack Road, within an easy walk from the site.

In summary, all major public facilities are situated within a mile of the site and most within easy walking distance.

#### 8. Proximity to Private Facilities

There are several professionals including doctors, lawyers and dentists who maintain offices within the village commercial area. Two religious institutions are located within  $\frac{1}{4}$  mile of the site.



## 9: Need for Housing

Whether a municipality is defined as developing, not developing or developed as cited in So. Burlington County NAACP vs. Township of Mt. Laurel does not affect the basic need for housing and the obligation of a community to provide the opportunity for balanced housing supply. There are two basic categories of need: 1) need generated within a community; 2) need generated by regional employment.

According to two State Department of Community Affairs documents: An Analysis of Low and Moderate Income Housing Need in New Jersey, 1973 and A Revised Statewide Housing Allocation Report for New Jersey, 1978 Far Hills is identified as having an existing physical housing need of between 14 and 32 units. These units include ones which are generally substandard or in which there is an imbalance between housing costs and ability to pay for housing.

Approximately 27 percent of the existing population is 62 years or over according to the 1980 Census. This is an unusually high percentage compared with other communities. For example, slightly over 18 percent of the county population is 62 years or over.

Many elderly or mature citizens who have raised families in large homes find the upkeep, heating costs, taxes, etc. burdensome. Indeed their space needs are much more modest and they consequently seek out smaller sized dwellings: apts, townhouses, duplexes, etc.

Similarly, young couples usually cannot afford nor have the space need for a large single family home. Again, a multi-family unit matches up house type with space needs and budget.

Although Far Hills has maintained that "the total region itself has little reason for growth" (Far Hills Master Plan, 1977), data with respect to employment indicates substantial regional growth. The following table illustrates the employment growth in 1970 and 1980 in Somerset County, Far Hills and adjacent communities.

TABLE OF COVERED EMPLOYMENT IN SOMERSET COUNTY AND SOMERSET HILLS MUNICIPALITIES FOR 1970 AND 1980

	<u>1970</u>	<u>1980</u>	<u>Percent Change</u>
Somerset County	46,498	79,324	+70.6
Far Hills Borough	242	463	+91.3
Bernards Township	375	5,346	+1,325.6
Bedminster Township	347	4,642	+1,237.7
Peapack Gladstone	363	848	+133.6
Bernardsville	1,371	2,020	+47.3

It is obvious from this table that Somerset Hills municipalities and Somerset County as a whole have experienced tremendous employment growth. The explosive employment growth in Bernards and Bedminster Townships as a result of AT&T facilities has had a substantial impact upon the area and county in terms of housing need and demand. The 1980 covered employment figure for Peapack-Gladstone does not take into account the completion of corporate headquarters of Beneficial Management which will accommodate about 1,000 employees. Even Far Hills Borough has experienced close to a doubling of covered employment jobs from 1970 to 1980.

In addition to housing needs and demands being generated by matching housing type with people's space needs and by employment growth, there have been numerous newspaper and periodical articles, governmental reports, local real estate opinion, court decisions and general public awareness of the critical need and demand for affordable housing. Indeed to assume otherwise would be a confession of insensitivity and ignorance.

With the exception of Far Hills, every Somerset Hills community has zoned areas for multi-family housing. In the face of the need and demand they could not do otherwise.

## SITE SPECIFIC CRITERIA

As mentioned previously, site specific criteria deals essentially with environmental limitations and capabilities of the site. According to the 1977 Far Hills Master Plan, four natural constraints were mapped on the existing land use map. The constraints are:

1. Fifteen (15) percent slope or greater
2. Depth to bedrock less than 1 foot
3. Flooding and flood fringe areas
4. Seasonal high water table 0 to 3.5 feet

The following section provides an analysis of the subject lot based upon the four cited constraints.

### 1. Slope

Although portions of Far Hills are impacted by steep slopes of 15 percent and over, the subject lot is not affected at all by this constraint. The overall slope averages five to six percent.

### 2. Depth to Bedrock less than 1 foot

According to the Soil Survey of Somerset County approximately 60 percent of the site consists of Landsdowne silt loam, 30 percent contains Abbottstown silt loam and the remaining 10 percent of the site is Rowland silt loam. Depth to bedrock in the Landsdowne soil is between 3½ to 5 feet while the Abbottstown soil depth to bedrock is 3½ to 4½ feet. With Rowland soil depth to bedrock is 4 feet plus. None of the soil types on the subject lot have depth to bedrock of less than 1 foot.

### 3. Flooding and Flood Fringe Areas

Both the State of New Jersey and the U.S. Department of Housing and Urban Development have delineated flood hazard areas in Far Hills. The Federal Flood Insurance Study has mapped both the 100 year and 500 year flood boundaries. According to the 1978 study, the subject lot is not located within either flood boundaries.

The State report, Delineation of Flood Hazard Areas - Raritan River Basin (1972) has mapped both floodway and flood fringe areas in Far Hills. The subject lot does not lie within either delineated areas.

### 4. Seasonal high water table 0 to 3.5 feet

Approximately 60 percent of the site is Landsdowne silt loam which has a "perched" seasonal water table at a depth of 1 to 2.5 feet in late fall, winter and early spring. Abbottstown soil has a "perched" seasonal water table at a depth of 6" to 18" in the fall, winter and spring.

According to the report of Ernest Hiesner, P.E. of Apgar Associates dated August 6, 1982, the primary constraint to development in soils with a high water table is their unsuitability for septic systems. Development in these soils is quite feasible. The need for adequate subsurface drainage may add to the site preparation costs. This groundwater problem can be rectified without causing stream or groundwater pollution.

As mentioned in previous sections, public water and public sewerage systems are located adjacent to the site and would be a requirement for development of the site for higher density and multi-family housing. Therefore, the only natural constraint which would inhibit development of the subject, season high water table, is removed when public water and sewer systems are available.

It is interesting to note that a substantial portion of the village of Far Hills consists of Abbottstown soil which has been identified as having a high water table. All of the village area is sewerred which has eliminated the negative constraints to development.

According to the report of Clifford Earl, a real estate appraiser, dated August 18, 1982 Mooreland Farms is identified by Mr. Earl as the only tract "upon which townhouses would not be a substantial negative intrusion into the rural areas of Far Hills." A large portion of the Mooreland Farms parcel contains Lands-downe silt loam soil which has a high water table.

#### CONCLUSION

It is the opinion of this report that there are no environmental constraints which would inhibit development of the site for higher density or multi-family housing. The one problem, seasonal high water, can be easily solved by the provision of public sewer and water.

Absent any environmental constraint, and considering the sites' satisfaction of criteria for higher density housing, there is no reasonable basis for ten (10) acre minimum lot size designation in the Master Plan. R -10 zoning of the property is therefore unreasonable.

## EXISTING ZONING PROVISIONS FOR HIGHER DENSITY OR MULTI-FAMILY HOUSING

The existing Zoning Ordinance of Far Hills Borough, adopted June 8, 1981, effectively precludes the construction of anything but a handful of multi-family dwelling units within the Borough. Approximately ninety percent (90%) of the municipality is zoned RS-10 Residential which, as specified within Article 8. of the Zoning Ordinance, requires a minimum lot area of ten (10) acres for each residential dwelling unit. Two (2) other residential zoning districts, the R-9 and the R-5 Districts, require minimum lot size of 9,000 square feet and 5,000 square feet, respectively, for each dwelling unit constructed. However, both the R-9 and the R-5 Districts have been formulated in recognition of existing development patterns and very little undeveloped land is available for new construction.

All three (3) of the residential districts permit the conversion of single family homes existing as of May 9, 1932 into two (2) or more individual housing units. Such conversion is a "conditional" use subject to other requirements specified in the Zoning Ordinance. As an example, Section 4.2.4. of the Zoning Ordinance requires that each dwelling unit must comply with all requirements of the Ordinance excepting the yard areas between individual dwelling units within the building. Moreover, in accordance with provisions specified in Article 9. of the Zoning Ordinance, no single family home higher than thirty-five feet (35') can be converted for multiple-family occupancy and any single family home converted for multiple-dwelling unit occupancy shall have all units three bedroom or larger separated by other dwelling units by an eight inch (8") masonry wall. Additionally, Section 9.5.3.2. of the Zoning Ordinance precludes any portion of any dwelling unit being placed above any other unit, thereby further restricting the possibility of actually converting an existing single family structure for multiple-family use.

As noted above, the prescribed density throughout approximately ninety percent (90%) of the Borough's land area is one tenth (1/10) dwelling unit per acre, apparently enforced even when conversions of an existing structure is involved. Summarily, this degree of low density cannot be justified from an environmental viewpoint, particularly on lands not critically impacted by unusually severe environmental constraints.

In addition to single family home construction and the conditional conversion of single family homes for multiple family use, both the R-9 and the R-5 Districts permit multiple dwelling unit construction. However, given the requirements and restrictions of the Ordinance indicated in Articles 4, 8 and 9, and given the fact that very little vacant land is available for new construction within the R-9 and the R-5 District areas, the permission to construct such multi-family dwelling units appears to be effectively irrelevant regarding any meaningful housing construction within the Borough.

It must be emphasized that all the multi-family uses, whether by conversion or by new construction, are "conditional" uses which can only be constructed if the application meets all of the conditions listed within the Ordinance. Within

Far Hills Borough, these conditions are confusing, overly generalized and subjective. In fact, there is even a reference in the Ordinance to Section 4.4.6. for multiple dwelling construction and to Section 4.4.5. for the conversion of existing residences, and neither of these Sections are found in the printed version of the Ordinance.

It is thus, herein concluded that there is no effective provision in the Far Hills Zoning Ordinance for higher density or multi-family housing. This type of housing can qualify as affordable, least cost and low and moderate income housing. It should, parenthetically, be added that the zoning even precludes development of middle income housing.

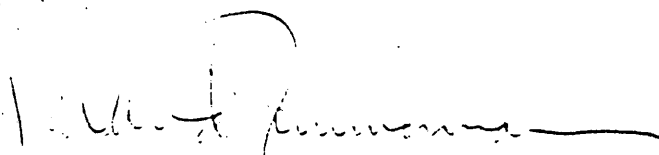
#### CONCLUSIONS

After careful analysis of the facts and relevant information it is my opinion that the Far Hills Master Plan and zoning ordinance are exclusionary, unreasonable and invalid.

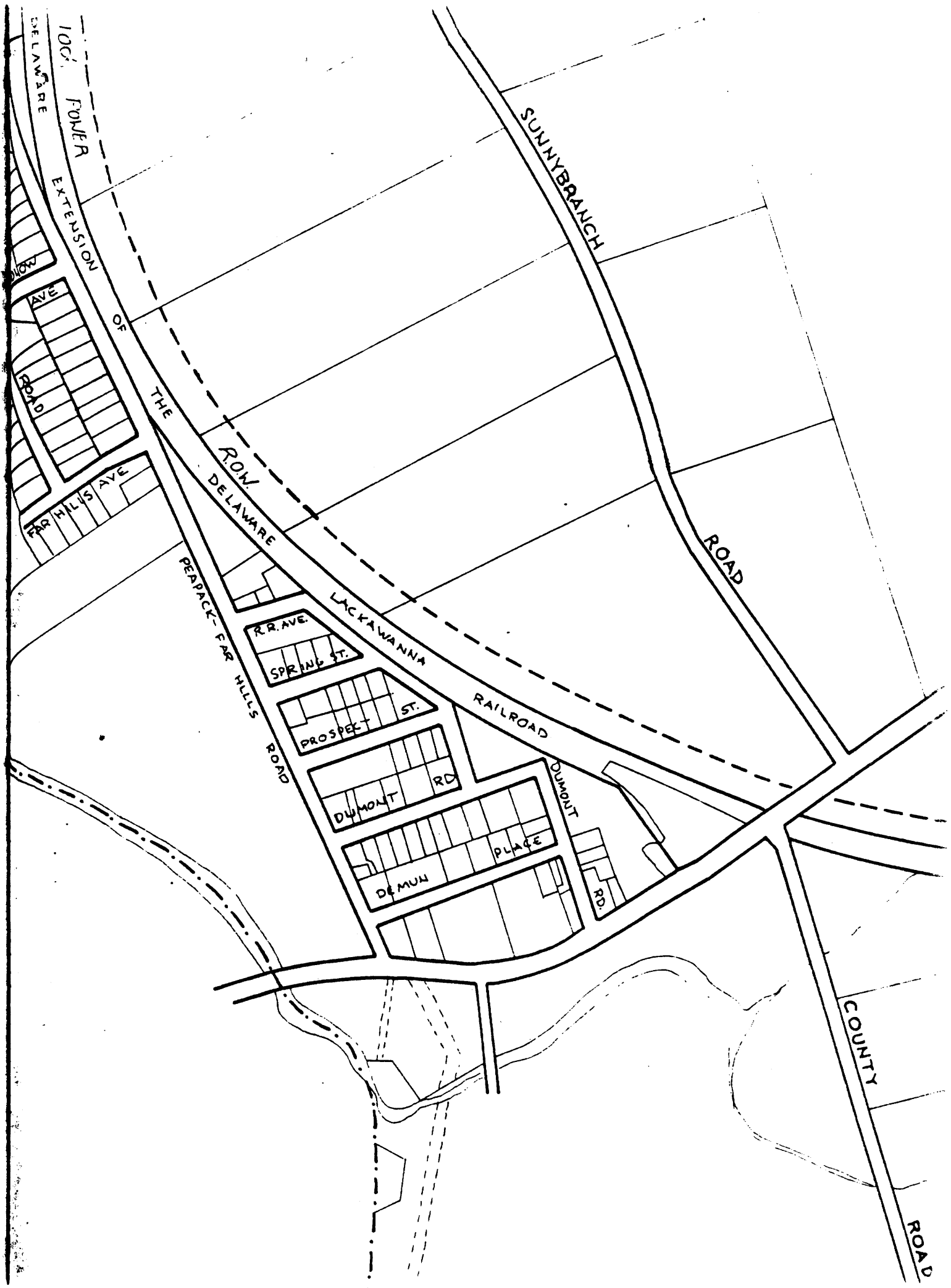
Far Hills was created in 1921 as an exclusionary real estate venture. It has persisted, to the present, as an enclave of exclusivity where only the very wealthy can afford the estates mandated by ten (10) acre zoning. At one time that land use policy may have been valid. Times have changed. Now highways and new employment have altered the region and more change is yet to come.

One consequence of those changes is a critical housing problem wherein the majority of our population cannot afford appropriate housing. Part of the cause for this problem is exclusionary land use practices and zoning.

Flying in the face of these crucial issues is the zoning ordinance of Far Hills which has created and continues to perpetuate the largest minimum lot size district in all New Jersey. There is not even the hint of a token response to these issues. Rather, the Borough has retreated behind environmental 'reasons' and dubious Master Plan conclusions. Even the royalty of old had a concept of noblesse oblige. Even the old Master Plan of 1964 made provision for growth in the Village. Indeed, every plan drafted proposed expansion on the Village on the very property being so recommended in this report. The Borough of Far Hills cannot do less.



P. David Zimmerman  
Professional Planner



100' FOWLER  
DELAWARE  
EXTENSION  
OF

SUNNYBRANCH  
ROAD

THE ROM  
DELAWARE

ROAD

LACKAWANNA  
RAILROAD

PEARACK-FAR HILLS  
ROAD

RR. AVE.

SPRING ST.

PROSPECT ST.

DUMONT RD.

DUMONT  
RD.

DEMUN PLACE

COUNTY  
ROAD

ROAD